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CHAPTER 13 STANDING TRUSTEE
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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re: **FRIERA, REYNALDO** **FRIERA, ANNABELLE M.** Debtor.	Case No.: 10-3-2420 SFC13 Date: January 19, 2010 Time:. 9:30 AM Court: U.S. Bankruptcy Court Judge Carlson's Courtroom 235 Pine Street, 23rd Fl., San Francisco, CA 94104

MOTION OF CHAPTER 13 STANDING TRUSTEE, DAVID BURCHARD, TO DISMISS CASE UNDER 11 U.S.C. SECTION 1307(c)(1)

The Chapter 13 Trustee, DAVID BURCHARD, ("Trustee") moves the Court for an Order, pursuant to 11 U.S.C. Section 1307(c)(1), to dismiss Reynaldo and Annabelle M. Friera's ("Debtors") case for having caused unreasonable delay that is prejudicial to creditors. Debtors filed their petition on June 29, 2010. There has been no progress in this case to address the thirteen (13) items listed in the Trustee's Objection to Confirmation filed on July 22, 2010 or the eleven (11) items listed in the Trustee's First Amended Objections filed on September 23, 2010.

This Court has jurisdiction over this matter pursuant to 11 U.S.C. Section 1307(c), 11 U.S.C. Section 1307(d), Federal Rules of Bankruptcy Procedures (FRBP) 9013, FRBP 9014 and Bankruptcy Local Rules 9013 and 9014. This is a core proceeding under 28 U.S.C. Section 157(b) (2) and (A).

This motion is made for cause pursuant to 11 U.S.C. Section 1307(c)(1) as this case has been pending since June 29 2010, which is more than five months ago. This Motion is based upon all of the documents, records on file, together with this Notice of Motion, Motion, Declaration and any such any additional documents, records and evidence that may be presented.

FACTS

1. This case was filed as a Chapter 13 on June 29, 2010.

2. The 341 Meeting of Creditors was first scheduled for August 5, 2010.

3. Sheila Gropper Nelson is the counsel of record for Debtors.

4. The Trustee filed his Objection to Confirmation on July 22, 2010, providing for thirteen (13) items of objection. (Doc. 14).

5. Due to the failure to provide to the Trustee Debtors' 2009 Federal Income Tax Return, the Trustee's staff attorney continued the hearing to September 30, 2010.

6. The Trustee filed his First Amended Objection to Confirmation on September 23, 2010, providing for an updated list of eleven (11) items of objection. (Doc. 21). Only two items were addressed by Debtors: providing the 2009 income tax returns to the Trustee and copies of deeds of trust pertaining to real property. The eleven (11) items of objection were the remaining unresolved issues raised in the original objection dated July 22, 2010.

7. At the continued 341 Meeting of Creditors on September 30, 2010, Debtors' counsel expressed the possibility that this case will be converted to another Chapter. Debtors testified that Mrs. Friera was recently laid off, and the Trustee's staff attorney requested amended schedules.

8. As of the date of this Motion, the eleven issues of the Trustee's First Amended Objection remain outstanding. There has been no activity or progress by Debtors in this case.

DISCUSSION

Pursuant to 11 U.S.C. § 1307(c)(1) "(t)he court may convert a case under this chapter to a case under Chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including- (1) unreasonable delay that is prejudicial to creditors."

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In the present case, the Debtors have failed to address the issues raised by the Trustee in his Objections to Confirmation for **over five months**. There has been no progress toward confirmation occurred since the filing of this plan. The plan provided that Debtors intend to file a Motion to Value the lien of Deutsche Bank. Deutsche Bank filed their objection to this motion on September 1, 2010. It is unclear from the court's docket as to the status of this dispute. To avoid prejudicial delay to creditors and the Trustee's administration of cases, the Trustee prays:

1. For an order dismissing this case; and
2. For such other and further relief as the Court may deem just and proper.

Respectfully submitted.

Dated: November 3, 2010

_/s/ Lilian G. Tsang
Lilian G. Tsang
Staff Attorney for David Burchard,
Chapter 13 Trustee